

Honolulu, Hawaii

MAR - 1 2013

RE: S.B. No. 1171  
S.D. 1

Honorable Donna Mercado Kim  
President of the Senate  
Twenty-Seventh State Legislature  
Regular Session of 2013  
State of Hawaii

Madam:

Your Committee on Technology and the Arts, to which was referred S.B. No. 1171 entitled:

"A BILL FOR AN ACT RELATING TO THE REVIEW OF HISTORIC PRESERVATION PROJECTS,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Authorize the phased review of projects by the Department of Land and Natural Resources' State Historic Preservation Division (SHPD) to ensure consistency between state and federal law; and
- (2) Delete language that provided the Governor with the option to request the Hawaii Advisory Council on Historic Preservation to report an action to overrule or sustain a department when an agency, officer, or other person is dissatisfied with a decision of the Hawaii Historic Places Review Board.

Your Committee received testimony in support of this measure from the Department of Land and Natural Resources; Department of Transportation; Department of Design and Construction, City and County of Honolulu; Townscape, Inc.; and one individual. Your Committee received testimony in opposition to this measure from the Office of Hawaiian Affairs, Historic Hawai'i Foundation, Society for Hawaiian Archaeology, Association of Hawaiian Civic Clubs, Native Hawaiian Legal Corporation, and one individual.



Your Committee finds that Hawaii must preserve its historic and cultural heritage through adaptable preservation plans. The inability to phase review would negatively affect certain projects, particularly complex multi-year, multi-phase projects. For instance, if the Department of Transportation's projects cannot be phased, it is possible that new highways could not be built or old highways could not be widened.

Your Committee further finds that SHPD rules are silent on phased reviews but state that SHPD must review a project in its entirety. The Hawaii Supreme Court ruling in *Kaleikini v. Yoshioka* stated that SHPD improperly allowed for a phased review of the Honolulu Rapid Transit Corridor rail project based on federal regulations allowing for a phased review of linear projects. This measure gives SHPD greater flexibility to address preservation plans and measures in alignment with federal laws.


Your Committee has amended this measure by:

- (1) Limiting the Department of Land and Natural Resources' authorization for phased review to proposed projects consisting of corridors of large land areas, where access to properties is restricted, or where circumstances dictate that construction be done in stages;
- (2) Inserting an effective date of January 1, 2050, to encourage further discussion; and
- (3) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Technology and the Arts that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1171, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1171, S.D. 1, and be placed on the calendar for Third Reading.



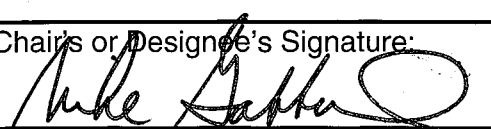
Respectfully submitted on  
behalf of the members of the  
Committee on Technology and the  
Arts,

  
\_\_\_\_\_  
GLENN WAKAI, Chair



The Senate  
 Twenty-Seventh Legislature  
 State of Hawai'i

**Record of Votes**  
**Committee on Technology and the Arts**  
**TEC**

Bill / Resolution No.:*	Committee Referral:	Date:		
SB1171	TEC	2/28/13		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is:				
<input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
WAKAI, Glenn (C)	✓			
NISHIHARA, Clarence K. (VC)				✓
GABBARD, Mike	✓			
TOKUDA, Jill N.				✓
SLOM, Sam		✓		
<b>TOTAL</b>	2	1	-	2
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution:             Original     Yellow     Pink     Goldenrod File with Committee Report     Clerk's Office     Drafting Agency     Committee File Copy				

\*Only one measure per Record of Votes